



General Assembly

January Session, 2011

Raised Bill No. 6566

LCO No. 4376

04376_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE COMPASSIONATE USE OF MARIJUANA.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2011*) As used in sections 1 to
2 13, inclusive, of this act, unless the context otherwise requires:

3 (1) "Compassionate use" means the acquisition and distribution,
4 possession, cultivation, use or transportation of marijuana or
5 paraphernalia relating to marijuana to alleviate a qualifying patient's
6 symptoms or the effects of such symptoms, but does not include any
7 such use of marijuana by any person other than the qualifying patient;

8 (2) "Debilitating medical condition" means cancer, glaucoma,
9 positive status for human immunodeficiency virus or acquired
10 immune deficiency syndrome, Parkinson's disease, multiple sclerosis,
11 damage to the nervous tissue of the spinal cord with objective
12 neurological indication of intractable spasticity, epilepsy, cachexia,
13 wasting syndrome, receiving services in a hospice licensed pursuant to
14 the Public Health Code or certified as a hospice pursuant to 42 USC
15 1395x, or any other medical condition, medical treatment or disease
16 approved by the Department of Consumer Protection pursuant to

17 regulations adopted under section 11 of this act;

18 (3) "Department" means the Department of Consumer Protection;

19 (4) "Licensed producer" or "producer" means any person or
20 association of persons within this state that the department determines
21 to be qualified to produce, possess, distribute and dispense marijuana
22 pursuant to sections 1 to 13, inclusive, of this act and that is licensed by
23 the department pursuant to regulations adopted under section 11 of
24 this act;

25 (5) "Marijuana" has the same meaning as provided in section 21a-
26 240 of the general statutes;

27 (6) "Paraphernalia" means drug paraphernalia, as defined in section
28 21a-240 of the general statutes;

29 (7) "Physician" means a person who is licensed under the provisions
30 of chapter 370 of the general statutes, but does not include a physician
31 assistant, as defined in section 20-12a of the general statutes;

32 (8) "Primary caregiver" means a person, other than the qualifying
33 patient and the qualifying patient's physician, who is eighteen years of
34 age or older and has agreed to undertake responsibility for managing
35 the well-being of the qualifying patient with respect to the
36 compassionate use of marijuana, provided (A) in the case of a
37 qualifying patient lacking legal capacity, such person shall be a parent,
38 guardian or person having legal custody of such qualifying patient,
39 and (B) the need for such person shall be evaluated by the qualifying
40 patient's physician and such need shall be documented in the written
41 certification;

42 (9) "Qualifying patient" means a person who is eighteen years of age
43 or older and has been diagnosed by a physician as having a
44 debilitating medical condition;

45 (10) "Usable marijuana" means the dried leaves and flowers of the

46 marijuana plant, and any mixtures or preparations thereof, that are
47 appropriate for the compassionate use of marijuana, but does not
48 include the seeds, stalks and roots of the plant; and

49 (11) "Written certification" means a statement signed by the
50 qualifying patient's physician stating that, in such physician's
51 professional opinion, the qualifying patient has a debilitating medical
52 condition and the potential benefits of the compassionate use of
53 marijuana would likely outweigh the health risks of such use to the
54 qualifying patient.

55 Sec. 2. (NEW) (*Effective October 1, 2011*) (a) A qualifying patient shall
56 not be subject to arrest or prosecution, penalized in any manner,
57 including, but not limited to, being subject to any civil penalty, or
58 denied any right or privilege, including, but not limited to, being
59 subject to any disciplinary action by a professional licensing board, for
60 the compassionate use of marijuana if:

61 (1) The qualifying patient has been diagnosed by a physician as
62 having a debilitating medical condition;

63 (2) The qualifying patient's physician has issued a written
64 certification to the qualifying patient for the compassionate use of
65 marijuana after the physician has prescribed, or determined it is not in
66 the best interest of the patient to prescribe, prescription drugs to
67 address the symptoms or effects for which the certification is being
68 issued;

69 (3) The combined amount of marijuana possessed by the qualifying
70 patient and the primary caregiver for compassionate use does not
71 exceed an amount reasonably necessary to ensure uninterrupted
72 availability for a period of three months, as determined by the
73 department pursuant to regulations adopted under section 11 of this
74 act, provided such amount is derived solely within this state; and

75 (4) The cultivation of such marijuana occurs in a secure indoor

76 facility.

77 (b) Subsection (a) of this section does not apply to:

78 (1) Any compassionate use of marijuana that endangers the health
79 or well-being of another person; and

80 (2) The compassionate use of marijuana (A) in a motor bus or a
81 school bus, as defined respectively in section 14-1 of the general
82 statutes, or in any moving vehicle, (B) in the workplace, (C) on any
83 school grounds or any public or private school, dormitory, college or
84 university property, (D) at any public beach, park, recreation center or
85 youth center or any other place that is open to the public, or (E) in the
86 presence of a person under the age of eighteen. For the purposes of this
87 subdivision, "presence" means within the direct line of sight of the
88 compassionate use of marijuana or exposure to second-hand marijuana
89 smoke, or both.

90 (c) A qualifying patient shall not have more than one primary
91 caregiver at any time. A primary caregiver may not be responsible for
92 the care of more than one qualifying patient at any time. A primary
93 caregiver who is registered in accordance with subsection (a) of section
94 3 of this act shall not be subject to arrest or prosecution, penalized in
95 any manner, including, but not limited to, being subject to any civil
96 penalty, or denied any right or privilege, including, but not limited to,
97 being subject to any disciplinary action by a professional licensing
98 board, for the acquisition, distribution, possession, cultivation or
99 transportation of marijuana or paraphernalia related to marijuana on
100 behalf of a qualifying patient, provided the amount of any marijuana
101 so acquired, distributed, possessed, cultivated or transported, together
102 with the combined amount of marijuana possessed by the qualifying
103 patient and the primary caregiver, shall not exceed an amount
104 reasonably necessary to ensure uninterrupted availability for a period
105 of three months, as determined by the department pursuant to
106 regulations adopted under section 11 of this act, provided such
107 amount is derived solely within this state. For the purposes of this

108 subsection, "distribution" or "distributed" means the transfer of
109 marijuana and paraphernalia related to marijuana from the primary
110 caregiver to the qualifying patient.

111 (d) Any written certification for the compassionate use of marijuana
112 issued by a physician under subdivision (2) of subsection (a) of this
113 section shall be valid for a period not to exceed one year from the date
114 such written certification is signed by the physician. Not later than ten
115 days after the expiration of such period, or at any time before the
116 expiration of such period should the qualifying patient no longer wish
117 to possess marijuana for compassionate use, the qualifying patient or
118 the primary caregiver shall destroy all marijuana plants and usable
119 marijuana possessed by the qualifying patient and the primary
120 caregiver for compassionate use.

121 Sec. 3. (NEW) (*Effective October 1, 2011*) (a) Each qualifying patient
122 who is issued a written certification for the compassionate use of
123 marijuana under subdivision (2) of subsection (a) of section 2 of this
124 act, and the primary caregiver of such qualifying patient, shall register
125 with the Department of Consumer Protection not later than five
126 business days after the issuance of such written certification. Such
127 registration shall be effective until the expiration of the written
128 certification issued by the physician. The qualifying patient and the
129 primary caregiver shall provide sufficient identifying information, as
130 determined by the department, to establish the personal identity of the
131 qualifying patient and the primary caregiver. The qualifying patient or
132 the primary caregiver shall report any change in such information to
133 the department not later than five business days after such change. The
134 department shall issue a registration certificate to the qualifying
135 patient and to the primary caregiver and shall charge the fee
136 established in regulations pursuant to section 11 of this act for a
137 registration under this subsection. Any registration fees collected by
138 the department under this subsection shall be paid to the State
139 Treasurer and credited to the account established pursuant to section
140 16 of this act.

141 (b) Upon the request of a law enforcement agency, the Department
142 of Consumer Protection shall verify whether a qualifying patient or a
143 primary caregiver has registered with the department in accordance
144 with subsection (a) of this section and may provide reasonable access
145 to registration information obtained under this section for law
146 enforcement purposes. Except as provided in this subsection,
147 information obtained under this section shall be confidential and shall
148 not be subject to disclosure under the Freedom of Information Act, as
149 defined in section 1-200 of the general statutes.

150 Sec. 4. (NEW) (*Effective October 1, 2011*) Nothing in sections 1 to 13,
151 inclusive, of this act shall be construed to require health insurance
152 coverage for the compassionate use of marijuana.

153 Sec. 5. (NEW) (*Effective October 1, 2011*) (a) A qualifying patient or a
154 primary caregiver may assert the compassionate use of marijuana as
155 an affirmative defense to any prosecution involving marijuana, or
156 paraphernalia relating to marijuana, under chapter 420b of the general
157 statutes or any other provision of the general statutes, provided such
158 qualifying patient or such primary caregiver has strictly complied with
159 the requirements of sections 1 to 13, inclusive, of this act.

160 (b) No person shall be subject to arrest or prosecution solely for
161 being in the presence or vicinity of the compassionate use of marijuana
162 as permitted under sections 1 to 13, inclusive, of this act.

163 Sec. 6. (NEW) (*Effective October 1, 2011*) A physician shall not be
164 subject to arrest or prosecution, penalized in any manner, including,
165 but not limited to, being subject to any civil penalty, or denied any
166 right or privilege, including, but not limited to, being subject to any
167 disciplinary action by the Connecticut Medical Examining Board or
168 other professional licensing board, for providing a written certification
169 for the compassionate use of marijuana under subdivision (2) of
170 subsection (a) of section 2 of this act if:

171 (1) The physician has diagnosed the qualifying patient as having a

172 debilitating medical condition;

173 (2) The physician has explained the potential risks and benefits of
174 the compassionate use of marijuana to the qualifying patient and, if the
175 qualifying patient lacks legal capacity, to a parent, guardian or person
176 having legal custody of the qualifying patient; and

177 (3) The written certification issued by the physician is based upon
178 the physician's professional opinion after having completed a full
179 assessment of the qualifying patient's medical history and current
180 medical condition made in the course of a bona fide physician-patient
181 relationship.

182 Sec. 7. (NEW) (*Effective October 1, 2011*) (a) A licensed producer shall
183 not be subject to arrest or prosecution, penalized in any manner,
184 including, but not limited to, being subject to any civil penalty, or
185 denied any right or privilege, including, but not limited to, being
186 subject to any disciplinary action by a professional licensing board, for
187 producing, distributing or dispensing marijuana pursuant to sections 1
188 to 13, inclusive, of this act.

189 (b) Notwithstanding subsection (a) of this section, a licensed
190 producer who sells, distributes, dispenses or transfers marijuana to a
191 person who is not approved by the department pursuant to sections 1
192 to 13, inclusive, of this act, or a licensed producer who obtains or
193 transports marijuana outside of this state in violation of federal law,
194 shall be subject to arrest, prosecution or civil or criminal penalties
195 pursuant to the laws of this state.

196 Sec. 8. (NEW) (*Effective October 1, 2011*) Any marijuana,
197 paraphernalia relating to marijuana, or other property seized by law
198 enforcement officials from a qualifying patient or a primary caregiver
199 in connection with a claimed compassionate use of marijuana under
200 sections 1 to 13, inclusive, of this act shall be returned to the qualifying
201 patient or the primary caregiver immediately upon the determination
202 by a court that the qualifying patient or the primary caregiver is

203 entitled to the compassionate use of marijuana under sections 1 to 13,
204 inclusive, of this act, as evidenced by a decision not to prosecute, a
205 dismissal of charges or an acquittal. Law enforcement officials seizing
206 live marijuana plants as evidence shall not be responsible for the care
207 and maintenance of such plants. This section does not apply to any
208 qualifying patient or primary caregiver who fails to comply with the
209 requirements for the compassionate use of marijuana under sections 1
210 to 13, inclusive, of this act.

211 Sec. 9. (NEW) (*Effective October 1, 2011*) (a) Any person who makes a
212 fraudulent representation to a law enforcement official of any fact or
213 circumstance relating to the compassionate use of marijuana in order
214 to avoid arrest or prosecution under chapter 420b of the general
215 statutes or any other provision of the general statutes shall be guilty of
216 a class C misdemeanor.

217 (b) Any person who makes a fraudulent representation to a law
218 enforcement official of any fact or circumstance relating to the
219 issuance, contents or validity of a written certification for the
220 compassionate use of marijuana, or a document purporting to be such
221 written certification, shall be guilty of a class A misdemeanor.

222 Sec. 10. (NEW) (*Effective October 1, 2011*) (a) The Commissioner of
223 Consumer Protection shall establish an advisory board consisting of
224 eight physicians or surgeons who are knowledgeable about the
225 compassionate use of marijuana and certified by the appropriate
226 American board in one of the following specialties: Neurology, pain
227 medicine, pain management, medical oncology, psychiatry, infectious
228 disease, family medicine or gynecology. The commissioner shall select
229 the members from a list submitted by the Connecticut Medical Society.
230 Four of the members first appointed shall serve for a term of three
231 years and four of the members first appointed shall serve for a term of
232 four years. Thereafter, members shall serve for a term of four years and
233 shall be eligible for reappointment. Any member may serve until a
234 successor is appointed. At the first meeting of the advisory board, the

235 board shall select a chairperson from among its members.

236 (b) A quorum of the advisory board shall consist of three members.

237 (c) The advisory board shall:

238 (1) Review and recommend to the department for approval
239 additional debilitating medical conditions that would benefit from the
240 compassionate use of marijuana;

241 (2) Accept and review petitions to add medical conditions, medical
242 treatments or diseases to the list of debilitating medical conditions that
243 qualify for the compassionate use of marijuana;

244 (3) Convene at least twice per year to conduct public hearings and
245 to evaluate petitions, which shall be maintained as confidential, for the
246 purpose of adding medical conditions, medical treatments or diseases
247 to the list of debilitating medical conditions that qualify for the
248 compassionate use of marijuana;

249 (4) Issue recommendations concerning regulations to be adopted for
250 the issuance of the registry identification cards; and

251 (5) Establish amounts of marijuana that are reasonably necessary to
252 ensure uninterrupted availability for a period of three months for
253 qualifying patients.

254 Sec. 11. (NEW) (*Effective from passage*) (a) The Commissioner of
255 Consumer Protection may adopt regulations, in accordance with
256 chapter 54 of the general statutes, to establish (1) a standard form for
257 written certifications for the compassionate use of marijuana issued by
258 physicians under subdivision (2) of subsection (a) of section 2 of this
259 act, and (2) procedures for registrations under section 3 of this act.

260 (b) The Commissioner of Consumer Protection shall adopt
261 regulations, in accordance with chapter 54 of the general statutes, to
262 establish a reasonable fee to be collected from each qualifying patient

263 to whom a written certification for the compassionate use of marijuana
264 is issued under subdivision (2) of subsection (a) of section 2 of this act,
265 for the purpose of offsetting the direct and indirect costs of
266 administering the provisions of sections 1 to 13, inclusive, of this act.
267 The commissioner shall collect such fee at the time the qualifying
268 patient registers with the Department of Consumer Protection under
269 subsection (a) of section 3 of this act. Such fee shall be in addition to
270 any registration fee that may be charged under said subsection. The
271 fees required to be collected by the commissioner from qualifying
272 patients under this subsection shall be paid to the State Treasurer and
273 credited to the account established pursuant to section 14 of this act.

274 (c) The Commissioner of Consumer Protection shall adopt
275 regulations, in accordance with chapter 54 of the general statutes, to
276 implement the provisions of sections 1 to 13, inclusive, of this act. At a
277 minimum, such regulations shall:

278 (1) Govern the manner in which the department considers
279 applications for the issuance and renewal of registration certificates for
280 qualifying patients and primary caregivers, and establish any
281 additional information to be contained in such registration certificates;

282 (2) Define the amount of marijuana that is necessary to constitute an
283 adequate supply, including amounts for topical treatments;

284 (3) Identify criteria and set forth procedures for adopting
285 regulations to add additional medical conditions, medical treatments
286 or diseases to the list of debilitating medical conditions that qualify for
287 the compassionate use of marijuana, which procedures shall include a
288 petition process and shall allow for public comment and public
289 hearings before the advisory board;

290 (4) Add additional medical conditions, medical treatments or
291 diseases to the list of debilitating medical conditions that qualify for
292 the compassionate use of marijuana as recommended by the advisory
293 board;

294 (5) Establish requirements and procedures for licensing producers
295 and marijuana production facilities; and

296 (6) Develop a distribution system for compassionate marijuana that
297 provides for:

298 (A) Marijuana production facilities within this state housed on
299 secured grounds and operated by licensed producers; and

300 (B) Distribution of marijuana for compassionate use to qualifying
301 patients or their primary caregivers to take place at locations that are
302 designated by the department and are not within one thousand five
303 hundred feet of a public or private elementary or secondary school, a
304 public housing project, a licensed child day care center, as defined in
305 section 19a-77 of the general statutes, or a church, chapel,
306 meetinghouse or other building generally used for religious worship.

307 (d) The commissioner shall submit regulations pursuant to
308 subsections (b) and (c) of this section to the standing legislative
309 regulation review committee not later than January 1, 2012, after
310 consultation with the advisory board established in section 10 of this
311 act.

312 Sec. 12. (NEW) (*Effective from passage*) (a) During the period
313 beginning on the effective date of this section and ending thirty days
314 after the effective date of regulations adopted pursuant to section 11 of
315 this act, a person who would be determined to be a qualifying patient,
316 except for the lack of effective regulations concerning registry
317 identification cards, licensed producers, marijuana production
318 facilities, distribution systems and amounts of marijuana, may obtain a
319 written certification from a practitioner and upon presentation of that
320 certification to the department, the department shall issue a temporary
321 certificate for the compassionate use of marijuana. The department
322 shall indicate on such temporary certificate the amount of marijuana
323 that may be possessed pursuant to such temporary certificate. The
324 department shall maintain a list of all temporary certificates issued

325 pursuant to this section and the information on such list shall be
326 confidential to the same extent as provided for information under
327 section 3 of this act.

328 (b) A person possessing a temporary certificate and the person's
329 primary caregiver shall not be subject to arrest, prosecution, civil or
330 criminal penalty or denial of any right or privilege for possessing
331 marijuana if the amount of marijuana possessed collectively is not
332 more than the amount specified on the temporary certificate.

333 (c) A practitioner shall not be subject to arrest or prosecution,
334 penalized in any manner or denied any right or privilege for
335 recommending the medical use of marijuana or providing written
336 certification for the medical use of marijuana pursuant to this section.

337 Sec. 13. (NEW) (*Effective October 1, 2011*) (a) For the purposes of this
338 section:

339 (1) "Action" has the meaning provided in section 47a-1 of the
340 general statutes;

341 (2) "Dwelling unit" has the meaning provided in section 47a-1 of the
342 general statutes;

343 (3) "Employer" means a person engaged in business who has one or
344 more employees, including the state and any political subdivision of
345 the state;

346 (4) "Landlord" has the meaning provided in section 47a-1 of the
347 general statutes;

348 (5) "School" means a public or private elementary or secondary
349 school in this state or a public or private institution of higher education
350 in this state; and

351 (6) "Tenant" has the meaning provided in section 47a-1 of the
352 general statutes.

353 (b) Unless required by federal law or required to obtain federal
354 funding:

355 (1) No school may refuse to enroll any person or discriminate
356 against any student solely on the basis of such person's or student's
357 status as a qualifying patient or primary caregiver under sections 1 to
358 12, inclusive, of this act;

359 (2) No landlord may refuse to rent a dwelling unit to a person or
360 take action against a tenant solely on the basis of such person's or
361 tenant's status as a qualifying patient or primary caregiver under
362 sections 1 to 12, inclusive, of this act; and

363 (3) No employer may refuse to hire a person or may discharge,
364 penalize or threaten an employee solely on the basis of such person's
365 or employee's status as a qualifying patient or primary caregiver under
366 sections 1 to 12, inclusive, of this act.

367 Sec. 14. (NEW) (*Effective July 1, 2011*) There is established a
368 compassionate marijuana administration account which shall be a
369 separate, nonlapsing account within the General Fund. The account
370 shall contain any fees collected pursuant to subsection (a) of section 3
371 of this act, the fees collected pursuant to subsection (b) of section 11 of
372 this act, and any other moneys required by law to be deposited in the
373 account, and shall be held in trust separate and apart from all other
374 moneys, funds and accounts. Any balance remaining in the account at
375 the end of any fiscal year shall be carried forward in the account for
376 the fiscal year next succeeding. Investment earnings credited to the
377 account shall become part of the account. Amounts in the account shall
378 be expended only pursuant to appropriation by the General Assembly
379 for the purpose of providing funds to the Department of Consumer
380 Protection for administering the provisions of sections 1 to 13,
381 inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section
Sec. 2	<i>October 1, 2011</i>	New section
Sec. 3	<i>October 1, 2011</i>	New section
Sec. 4	<i>October 1, 2011</i>	New section
Sec. 5	<i>October 1, 2011</i>	New section
Sec. 6	<i>October 1, 2011</i>	New section
Sec. 7	<i>October 1, 2011</i>	New section
Sec. 8	<i>October 1, 2011</i>	New section
Sec. 9	<i>October 1, 2011</i>	New section
Sec. 10	<i>October 1, 2011</i>	New section
Sec. 11	<i>from passage</i>	New section
Sec. 12	<i>from passage</i>	New section
Sec. 13	<i>October 1, 2011</i>	New section
Sec. 14	<i>July 1, 2011</i>	New section

Statement of Purpose:

To allow for the compassionate use of marijuana to alleviate the symptoms of debilitating medical conditions.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]